



State of Washington
Department of Revenue

Excise Tax Advisory

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THE APPLICABILITY OF THE INTERSTATE COMMERCE EXEMPTION TO FREIGHT FORWARDERS

Issued March 29, 1968

Are the gross proceeds earned by a freight forwarder who solicits "less than carload" freight from local customers for shipment to points without this state subject to the Business and Occupation Tax?

The taxpayer, a freight forwarder, maintained that the doctrine expressed in the Department of Revenue's ETB 286.04.193 was not applicable to his business activity since any tax assessed upon him under those guidelines is barred by the commerce clause of the Federal Constitution.

The Department of Revenue ruled that published Rule 193 was controlling. The Rule states under Section III, Business and Occupation Tax, Service and Other Business Activities: Interstate and Foreign Commerce, that:

Engaging in interstate or foreign commerce is exempt . . .

Types of Exempt Income:

(1) Those activities which involve the actual transportation of goods or commodities in interstate or foreign commerce . . .

Thus, where a freight forwarder has the contractual responsibility to move the freight to its destination in interstate commerce it is an interstate carrier. Any freight forwarder claiming the exemption must comply with the following qualifications:

ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.

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(1) It must be regulated as a common carrier under Part IV of the Interstate Commerce Act (49 U.S.C., Sec. 1001) and hold a permit issued by the Interstate Commerce Commission.

(2) It must file all tariffs with the Interstate Commerce Commission and issue a uniform bill of lading as prescribed by the Commission.

(3) The bill of lading must indicate that the freight forwarder has common carrier responsibility to the consignor from point of origin to the out-of-state consignee at an out-of-state delivery point.

Income earned by a freight forwarder from intrastate shipments is not exempt. The fact that a freight forwarder owns no rolling stock and contracts with others for actual handling and transportation of the goods (including pickup and delivery) is immaterial to the exemption.

Business activities which give rise to tax liability to the State of Washington are:

(1) Storage charges and storage charges on incoming merchandise held more than 48 hours. (Other Public Service Business.)

(2) Charges for local pickup and delivery services performed before the goods have reached the origin of the interstate bill of lading or after the goods have reached the destination indicated on the interstate freight bill. (Motor or Urban Transportation.)

(3) C.O.D. fees. ("Service.")

(4) The Use Tax applies to consumable supplies used by a local office such as freight bills, letterheads, stationery, envelopes, supplies, etc.

ETB 286.04.193 shall continue to apply to any freight forwarding business activity which does not meet the qualifications or exceptions stated in this bulletin. (Letter.)